



STATE OF CALIFORNIA

TATE BOARD OF EQUALIZATION

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DOUGLAS D. BELL
Executive Secretary

January 6, 1988

Mr.

Dear Mr. :

This is in response to your December 7, 1987, letter wherein you advised that the Center is contemplating the development of several small two- and three-unit condominiums in Pasadena which will be sold to low- and moderate-income households and you asked:

1. Could the low-income homeowners be eligible for exemption from property taxes under AB2144, Statutes of 1987, chapter 1469, in effect January 1, 1988, operative for the 1988-89 fiscal year and for subsequent fiscal years? The homeowners would have an association, which would be a nonprofit corporation.
2. Could a homeowners' association rent the condominiums to low-income households so that they could be eligible for exemption from property taxes under AB2144, Statutes of 1987, chapter 1469?

Statutes of 1987, chapter 1469, added subdivision (g) to the Revenue and Taxation Code section 214, which provides for the welfare exemption from property taxation. Subdivision (g) provides, in part:

"Property used exclusively for rental housing and related facilities and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations, including limited partnerships in which the managing general partner is an eligible nonprofit corporation, meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section"

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Mr.

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January 6, 1988

A copy of subdivision (g) and section 214 as amended by Statutes of 1987, chapter 1469, is enclosed for your information.

As you will note, subdivision (g) pertains to property used exclusively for rental housing, not owned housing. Thus, as to your first question, the low-income homeowners would not be eligible for exemption under subdivision (g) or under the welfare exemption generally.

There is another exemption from property taxes for persons who own their homes, however, the homeowners' exemption. Pursuant to article XIII, section 3(k), of the California Constitution and Revenue and Taxation Code section 218, \$7,000 of the full value of a dwelling when occupied by an owner as his or her principal residence on the lien date is eligible for that exemption. Copies of article XIII, section 3(k) and section 218 also are enclosed for your information. As indicated in section 218, the exemption does not extend to property which is rented, vacant, under construction on the lien date, or which is a vacation or secondary home of the owner or owners; and article XIII, section 3(k) further limits the exemption to dwellings not receiving any other real property exemption.

As to your second question, a qualifying religious, hospital, or charitable fund, foundation, or corporation could own the condominiums and rent them to low-income households and be eligible for the welfare exemption under subdivision (g), but all the requirements of subdivision (g), of section 214, and of related sections would have to be met. The typical homeowners' association could not own the condominiums and rent them to low-income households/homeowners who are members of the association, however, since the owners and renters would be the same and since the association would not meet all of the requirements for the welfare exemption.

As to the specific requirements of subdivision (g), see the enclosure. As to the basic requirements of section 214 and related sections, the qualifying organization would have to be organized and operated for charitable purposes, and it could not be organized or operated for profit (section 214(a)(1)). No part of its net earnings could inure to the benefit of any private shareholder or individual (section 214(a)(2)). And its property would have to be irrevocably dedicated to charitable purposes, and upon its liquidation, dissolution or abandonment, its property would have to inure to the benefit of a fund, foundation or corporation organized and operated for an exempt purpose or purposes (sections 214(a)(6) and 214.01).

Concerning income tax exemption letters, section 214.8 provides in pertinent part:

"(a) Except as provided in section 213.7 and 231, the 'welfare exemption' shall not be granted to any organization unless it is qualified as an exempt organization under either section 23701d of this code or section 501(c)(3) of the Internal Revenue Code of 1954. This section shall not be construed to enlarge the 'welfare exemption' to apply to organizations qualified under section 501(c)(3) of the Internal Revenue Code of 1954 but not otherwise qualified for the 'welfare exemption' under other provisions of this code.

* * *

"(b) For purposes of subdivision (a), an organization shall not be deemed to be qualified as an exempt organization unless the organization files with the assessor duplicate copies of a valid, unrevoked letter or ruling from either the Franchise Tax Board, or in the alternative, the Internal Revenue Service, which states that the organization qualifies as an exempt organization under the appropriate provisions of the Bank and Corporation Tax Law or the Internal Revenue Code."

Returning to section 214, when organizational requirements are met, it is then necessary for the qualifying organization to establish that its property is actually used for an exempt activity or activities in order for it to receive the exemption. Thus, the organization's property must be used for the actual operation of the charitable activity and must not exceed an amount of property reasonably necessary to the accomplishment of the charitable purposes (section 214(a)(3)), its property must not be used to benefit anyone through the distribution of profits, payment of excessive charges or compensations, or the more advantageous pursuit of his or her business or profession (section 214(a)(4)), and its property must not be used for fraternal, lodge, or social club purposes (section 214(a)(5)).

In conclusion, the welfare exemption requires an annual filing by the claimant with annual review by this Board and by the county assessor (Rev. and Tax. Code, § 254.5), whereas affidavits for the homeowners' exemption are, with certain exceptions, to be filed with the assessor any time after the claimant becomes eligible but no later than 5 p.m. on April 15 (Rev. & Tax. Code, §§ 253.5, 255(b), 255.1, 255.2, and 275).

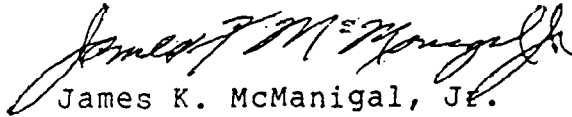
Mr.

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January 6, 1983

If, after you have reviewed the contents of this letter and the statutes referred to herein, you have any further questions in these regards, please do not hesitate to contact us again.

Very truly yours,

A handwritten signature in cursive script, appearing to read "James K. McManigal, Jr.", is written over the typed name.

James K. McManigal, Jr.
Tax Counsel

JKM/rz

Enclosures